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10/678,780	10/03/2003	Stephen Shew	36173	3412

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EXAMINER	
DAVENPORT, MON CHERI S	
ART UNIT	**PAPER NUMBER**
2609	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/678,780	SHEW ET AL.	
	Examiner	Art Unit	
	Mon Cheri S. Davenport	2609	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10/3/2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 2/3/05
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-15** rejected under 35 U.S.C. 102(e) as being anticipated by Charas et al. (US Patent Number 6,747,986).

Regarding **Claim 1** Charas et al. discloses a method of controlling a multi-layer transport network, the method comprising steps of **(see figure 2A, section 100, access network):**

determining whether a connection***(mapping packets)*** supporting a performance requirement of a call can be established within a first layer of the network***(see col. 4, line 39-41, packets are connected to layer one of the network if predetermined criteria is met)*** ; and

if the connection cannot be established, defining an association between the call and a second call ***(see col. 4, line 51-54, the access router functions as a service access node and associates access function of services required)*** instantiated within a respective second layer of the network***(see col. 4, line 39-41, connection is established in the bearer (layer) when predetermine criteria is met).***

Regarding **Claim 2** Charas et al. discloses everything as applied above (*see claim 1*). In addition the method includes:

instantiating a first call controller ***(see figure 2A, section 114, (IWF_NS), col. 4, lines 26-33)*** within a respective first layer of the network ***(see col.4, lines 39-41, packet are mapped through the first layer bearer if predetermine criteria is met);***

determining whether a respective first connection for the call can be supported by the first layer ***(col. 4, line 39-41, packet are mapped to the first layer bearer if predetermine criteria is met);***

if the connection can be supported by the first layer, setting up the call using connections in the first layer of the network***(see col. 4, lines 51-54, the access router is a service node that provide access function for the first layer);*** and

otherwise:

instantiating a second call controller in a respective second layer of the network***(see col.4, lines 39-41, packet are mapped through the second layer bearer if predetermine criteria is met***); and

defining an association between the first and second call controllers***(see col. 4, line 51-54, the access router functions as a service access node and associates access function of services required)***.

Regarding **Claim 3** Charas et al. discloses everything as applied above (*see claim 2*). In addition the method includes:

wherein the second layer is a server layer to the first layer***(see col. 4, line 36, layer 2 (data link layer)).***

3. With respect to **Claim 4 and 12**, it is noted that the language used by Applicant merely suggest or makes optional those features described as "Adapted to"; It has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re Hutchison, 69 USPQ 138.

Regarding **Claim 4** Charas et al. discloses everything as applied above (*see claim 2*). In addition the method includes:

wherein the step of setting up the call through the first layer of the network comprises a step of sending a call request message through a control link ***(see figure 2A,section 114, Interworking Functions unit at the Network side(IWF_NS), col. 4, line 27-33)*** adapted to convey call requests for the first layer of the network ***(see col. 4, line 27-33, IWF_NS unit serves layer one communication session).***

Regarding **Claim 5** Charas et al. discloses everything as applied above (*see claim 4*). In addition the method includes:

receiving the call request message through the control link ***(see col. 4, lines 32-35, IWF_NS, maps the communication call request);***

determining whether the call request message contains an encapsulated call request message for a third layer of the network***(see col. 4, lines 12-17, packet pipe provide for radio bearer service to layer three, col. 4, lines 39-41, communication are mapped to layer three bearer if predetermine criteria is met)*** ; and

if an encapsulated call request message is found ***(see col. 5, line 17-21, ATM gateway provides service connectivity for IP based services):***

extracting the encapsulated call request message ***(see col. 5, line 17-21, ATM gateway provides service connectivity for IP based services)***

passing the extracted call request message to the third layer ***(see col. 4, line 51-54, the access router provide access functions for the request third layer call request).***

Regarding **Claim 6** Charas et al. discloses everything as applied above (*see claim 5*). In addition the method includes:

wherein the third layer is a client layer to the first layer***(see col. 4, line 16-17, layer 3, is a client layer of layer one).***

Regarding **Claim 7**Charas et al. discloses everything as applied above (*see claim 2*). In addition the method includes:

wherein the step of instantiating a second call controller **(layer 2)** in a respective server layer of the network comprises a step of passing a call request message to a control plane **(access router)** of the server layer, the control plane being responsive to the call request message to instantiate the second call controller ***(see col. 4, lines 31-35, the call is mapped to layer two bearer if predetermine criteria is met).***

Regarding **Claim 8** Charas et al. discloses everything as applied above (*see claim 7*). In addition the method includes:

wherein the call request message comprises at least information identifying the first call ***(see col. 2, line 7-10, packet pipe architecture provide for packet based network layer architecture, that includes identity information),*** and wherein the step of defining an association between the first and second call controllers comprises a step of passing the call request message to the second call controller ***(see col. 4, line 39-41, communication are mapped to layer two bearer if predetermined criteria are met).***

Regarding **Claim 9** Charas et al. discloses a method of managing a call within a multi-layer transport network, the method comprising steps of:

determining whether a connection for the call can be supported by a first layer of the network ***(see col. 4, line 39-41, packets are connected to layer one of the network if predetermined criteria is met);***

if the connection can be supported by the first layer, setting up an association between a call management object of the call and a respective connection management object in the first layer ***(see col. 4, lines 51-54, the access router is a service node that provide access function for the first layer);*** and

otherwise:

defining an association between the call management object **(see figure 2A, section 114, IWF_NS)** and a second call (***see col. 4, line 51-54, the access router functions as a service access node and associates access function of services***

required) management object **(IWF-NS)** instantiated within a respective second layer of the network ***(see col. 4, line 39-41, connection is established in the bearer (layer) when predetermine criteria is met).***

Regarding **Claim 10** Charas et al. discloses everything as applied above (*see claim 9*). In addition the method includes:

wherein the second layer is a server layer to the first layer ***(see col. 4, line 36, layer 2 (data link layer))***.

Regarding **Claim 11** Charas et al. discloses everything as applied above (*see claim 9*). In addition the method includes:

wherein the step of defining an association between the call management object and the second call management object**(see figure 2A, section 114, IWF_NS)** comprises a step of passing a call request message to a control plane ***(see figure 2A section 116, access router , col. 4 lines 51-54)*** of the second layer, the call request message including at least information identifying the call management object ***(see col. 4 line 26-34, the communication will address the IWF_NS in order to communicate through the second layer if predetermine criteria is met).***

Regarding **Claim 12** Charas et al. discloses everything as applied above (*see claim 9*). In addition the method includes:

wherein the step of setting up the connection through the first layer comprises a step of sending a call request message through a control link ***see figure 2A,section 114, Interworking Functions unit at the Network side(IWF_NS), col. 4, line 27-33)*** adapted to convey call requests for the first layer of the network ***(see col. 4, line 27-33, IWF_NS unit serves layer one communication session).***

Regarding **Claim 13** Charas et al. discloses everything as applied above (*see claim 9*). In addition the method includes:

receiving the call request message through the control link***(see figure 2A, section 114, IWF_NS, see col. 4, line 32-35, maps communication for the access network);***

determining whether the call request message contains an encapsulated call request message for a third layer of the network***(see col. 4, lines 12-17, packet pipe provide for radio bearer service to layer three, col. 4, lines 39-41, communication are mapped to layer three bearer if predetermine criteria is met)***; and

if an encapsulated call request message is found, defining an association between the call management object and a respective third call management object ***(see col. 5, line 17-21, ATM gateway provides service connectivity for IP based services)*** instantiated within the third layer of the network***(see col. 4, line 51-54, the access router provide access functions for the request third layer call request).***

Regarding **Claim 14** Charas et al. discloses everything as applied above (*see claim 13*). In addition the method includes:

wherein the third layer is a client layer to the first layer ***(see col. 4, line 16-17, layer 3, is a client layer of layer one).***

Regarding **Claim 15** Charas et al. discloses everything as applied above (*see claim 13*). In addition the method includes:

wherein the step of defining an association between the call management object and the third call management object comprises steps of:

extracting the encapsulated call request message ***(see col. 5, line 17-21, ATM gateway provides service connectivity for IP based services);*** and

passing the extracted call request message to a control plane of the third layer***(see col. 4, lines 51-54, the access router provides access function for the requested third layer packets).***

Citation of Pertinent Prior Art

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Tasker (US Patent Number 7,068,594) see abstract.

St-Amand et al. (US Patent Number 6,298,059) see abstract.

Bouat et al. (US Patent Application Publication 2003/0101372)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mon Cheri S. Davenport whose telephone number is 571-270-1803. The examiner can normally be reached on Monday - Friday 8:00 a.m. - 5:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Seema S. Rao 5/23/07
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Md/md
May 22, 2007